IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13432 of 2005

Between:

Sd. Basheer, S/o. Mastansaheb,
R/o. South RajupalemVillage, Nellore District.

..... PETITIONER

AND

1 The Joint Collector, Nellore District.
2 The Mandal Revenue Officer, Nellore District.
3 The Revenue Divisional Officer, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order, direction or writ, more particularly one in the nature of writ of Mandamus declaring the order of the Joint Collector, Nellore passed in Rc.E. 311/2005, dt. 6.6.2005 dismissing the appeal filed by the petitioner against the order of the R.D.O. Nellore passed in Rc.C.1651/2005, dt. 19.4.2005 without hearing either the petitioner or his counsel as illegal, arbitrary and violative of principles of natural justice and against the provisions of clause (20) of A.P. State Public Distribution System (Control Order), 2001 and also declare the order of the R.D.O., Nellore, in Rc.C.1651/2005, dt. 19.4.2005, suspending the authorization of the petitioner, F.P. Shop dealer of South Rajupalem as illegal and arbitrary and set-aside both the orders.

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following:

Oral order:-

The petitioner is a fair price shop dealer of South Rajupalem village, Nellore Mandal and district. His authorization was suspended by the Revenue Divisional Officer, Nellore, by the order dated 19-04-2005 on the ground of commission of irregularities specified in the order of suspension. Aggrieved thereby, petitioner preferred an appeal to the Joint Collector, Nellore, a remedy available under Clause 20 (2) of the Andhra Pradesh Public Distribution System (Control) Order, 2001. The Joint Collector, by the impugned order dated 06-06-2005, in substance, rejected the appeal directing the Revenue Divisional Officer to pass final orders within a month. The reasons recorded for such an order by the Joint Collector is that the order of suspension is interim in nature.

Learned counsel for the petitioner contends that the Joint Collector abdicated the appellate jurisdiction and obligation in not considering his appeal, on merits, and after affording the petitioner an opportunity of hearing. It is contended that in the grounds of appeal, the petitioner has rebutted every one of the allegations on the basis on which his authorization was suspended, pending inquiry and that these statements of rebuttal have not been rationally considered by the 1st respondent in disposing of the appeal; the second round of attack on the impugned order is that without affording him an opportunity, the appeal was determined finally ex-parte.

These contentions are not rebutted and are well-founded. Accordingly, the writ petition is allowed. The order of the 1st respondent dated 06-06-2005 is set aside. The 1st respondent is now directed to dispose of the petitioner's appeal against the order of his suspension of authorization dated 19-04-2005, on merits and after recording reasons. The petitioner shall also be afforded an opportunity after notifying him the date for inquiry. Nothing in this order shall be construed as an expression by this court, on the merits of the petitioner's claims, as to the validity of the order of suspension of authorization, pending inquiry. The 1st respondent is directed to

dispose of the petitioner's appeal expeditiously, after following the due process of law, as indicated above. No costs.

GODA RAGHURAM, J

Dt. 06-07-2005

Pvks/*

Nb: Furnish c.c. in two days.

B/o pvks

To

1 The Joint Collector, Nellore District.
2 The Mandal Revenue Officer, Nellore District.
3 The Revenue Divisional Officer, Nellore District.

4. 2 CCs., to the learned Government Pleader for Civil Supplies, A.P. High Court Buildings, Hyderabad (OUT)

5. 2 CD copies

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